

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CRAIG CUNNINGHAM,)
Plaintiff,)
v.) Case No. 3:15-cv-00215
KATHY MCDONALD et al.,) Judge Sharp/Knowles
Defendants.)

REPORT AND RECOMMENDATION

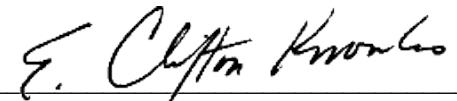
This matter is before the Court upon a “Motion to Dismiss” filed by Defendants Kathy McDonald and VIM Holdings, Inc. Docket No. 39. With the Motion, Defendants filed the Declaration of Kathy McDonald (Docket No. 39-1) and a supporting Memorandum of Law (Docket No. 40).

At the time the Motion was filed, the operative Complaint was a document headed “Plaintiff’s Amended complaint,” which was filed July 2, 2015. Docket No. 31. The Court has recently allowed Plaintiff leave to file a “Second Amended complaint.” Docket Nos. 68, 68-1, 70. The instant Motion is directed to the allegations of the prior Amended complaint.

Therefore, the instant Motion (Docket No. 39) should be DENIED as moot.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days after service of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have fourteen (14) days after service of any objections filed to this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of service of this Report and Recommendation can constitute a waiver of further appeal of this

Recommendation. *See Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L. Ed. 2d 435 (1985),
reh'g denied, 474 U.S. 1111 (1986); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.



E. CLIFTON KNOWLES
United States Magistrate Judge